

**FILED**

June 14, 2022

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

**UNITED STATES DISTRICT COURT**

BY: lad

DEPUTY

**WESTERN DISTRICT OF TEXAS - WACO DIVISION**

5 PROFESSOR MICHAEL STEVEN MOATES,  
6 MA, QBA, LBA, LMHP, LCMHC  
7 2700 COLORADO BOULEVARD APT 1526  
DENTON, TEXAS 76210  
MIKE@BEHAVIORMED.ORG

8 CASE NO. 6:22-cv-00626

9 PLAINTIFF

10 VS.

11 JOSEPH R. BIDEN JR.  
PRESIDENT OF THE UNITED STATES  
12 950 PENNSYLVANIA AVENUE, NW  
WASHINGTON, DC 20530-0001

13 STATE OF GEORGIA  
40 CAPITOL SQUARE, SW  
ATLANTA, GA 30334

JURY TRIAL DEMANDED

14 STATE OF LOUISIANA  
1885 N. THIRD STREET  
15 BATON ROUGE, LA 70802

16 STATE OF MISSOURI  
P.O. BOX 899  
17 JEFFERSON CITY, MO 65102

18 STATE OF NORTH CAROLINA  
P.O. BOX 629  
19 RALEIGH, NC 27602

20 STATE OF OKLAHOMA  
313 NE 21ST STREET  
OKLAHOMA CITY, OK 73105

21 STATE OF TEXAS  
300 W. 15TH STREET, 7TH FLOOR  
22 AUSTIN, TX 78701

23 STATE OF VIRGINIA  
202 NORTH NINTH STREET  
RICHMOND, VIRGINIA 23219  
24 WILLIAM BOURLAND, INDIVIDUALLY  
7117 FORESTVIEW DR

1 ARLINGTON, TX 76016 )  
2 STATE OF WYOMING )  
3 109 STATE CAPITOL )  
4 CHEYENNE, WY 82002 )  
5 TEXAS DEPARTMENT OF LICENSING AND )  
6 REGULATION )  
7 920 Colorado )  
8 Austin, Texas 78701 )  
9 MICHAEL ARISMENDEZ, INDIVIDUALLY )  
10 920 Colorado )  
11 Austin, Texas 78701 )  
12 KATIE BRICE, INDIVIDUALLY )  
13 920 Colorado )  
14 Austin, Texas 78701 )  
15 WILLIAM BOURLAND, INDIVIDUALLY )  
16 7117 FORESTVIEW DR )  
17 Arlington, TX 76016 )  
18 BRIAN FINDLAY, INDIVIDUALLY )  
19 6310 N MACARTHUR BLVD APT: 3039 )  
20 IRVING, TX 75039 )  
21 MARIEL FERNANDEZ, INDIVIDUALLY )  
22 10503 METRIC DRIVE )  
23 DALLAS, TX 7524 )  
24 JOYCE MAUK, INDIVIDUALLY )  
25 1300 W LANCASTER )  
26 FORT WORTH, TX 76102 )  
27 CAROL SLOAN, INDIVIDUALLY )  
28 1120 MEDICAL PLAZA DRIVE )  
29 SUITE 100 )  
30 THE WOODLANDS, TX 77380 )  
31 LAURIE SNYDER, INDIVIDUALLY )  
32 PO BOX 92123 )  
33 SOUTHLAKE, TEXAS 76092 )  
34 STEPHANIE SOKOLOSKY, INDIVIDUALLY )  
35 PO BOX 532228 )  
36 HARLINGEN, TX 78553 )

22 **PLAINTIFF ORIGINAL PETITION**  
23  
24

TO THE HONORABLE COURT APPEARS  
PROFESSOR MICHAEL MOATES, MA, QBA, LBA, LMHP, LCMHC - PRO SE  
TO BRINGS THIS CLAIM AGAINST THE GOVERNMENT AND PRIVATE ENTITIES

## **JURISDICTION**

**1. THIS COURT HAS JURISDICTION FOR VARIOUS REASONS.**

FIRST, THERE ARE MANY ISSUES OF LAW THAT ARE FEDERAL AND CONSTITUTIONAL QUESTIONS. SEE ARTICLE III SECTION II. SEE 28 U.S.C. § 1331. THE MAJORITY OF THE CLAIMS BROUGHT FORTH IN THIS ACTION ARE DONE AS A MATTER OF CONSTITUTIONAL LAW.

## **VENUE**

2. VENUE IS PROPER BECAUSE THIS COURT IS IN THE "JUDICIAL DISTRICT IN WHICH A SUBSTANTIAL PART OF THE EVENTS OR OMISSIONS GIVING RISE TO THE CLAIM OCCURRED..." FURTHER, DEFENDANT STATE OF TEXAS AND MAJORITY OF DEFENDANTS ARE BASED IN AUSTIN, TEXAS IN THIS COURT'S JURISDICTION. SEE 28 U.S.C. § 1391.

## **PARTIES AND SERVICE CONTACTS**

3. PLAINTIFF MICHAEL STEVEN MOATES IS A LICENSED BEHAVIOR ANALYST, LICENSED CLINICAL MENTAL HEALTH COUNSELOR, COLLEGE PROFESSOR, JOURNALIST, AND

1 DOCTOR OF EDUCATION CANDIDATE. HE CAN BE SERVED AT  
2 THE ADDRESS ABOVE. PROFESSOR MOATES IS A QUALIFIED  
3 BEHAVIOR ANALYST BY THE QUALIFIED APPLIED BEHAVIOR  
4 ANALYSIS CREDENTIALING BOARD AND AN INTERNATIONAL  
5 BEHAVIOR ANALYST BY THE INTERNATIONAL BEHAVIOR  
6 ANALYST ORGANIZATION. HE HAS NUMEROUS BEHAVIORAL  
7 AND MENTAL HEALTH CERTIFICATIONS AND COURSEWORK  
8 FROM THE DEPARTMENT OF JUSTICE, DEPARTMENT OF  
9 HOMELAND SECURITY, FEDERAL AVIATION ADMINISTRATION,  
10 AND CENTERS FOR DISEASE CONTROL. HE HAS COMPLETED  
11 COURSEWORK AT STANFORD, JOHNS HOPKINS, AND OTHER  
12 PRIVATE AND STATE UNIVERSITIES AS WELL AS UNIVERSITIES  
13 OVERSEAS. PROFESSOR MOATES HAS BEEN IN THE MENTAL  
14 HEALTH AND BEHAVIOR ANALYSIS FIELDS SINCE 2015.  
15

- 16
- 17 4. DEFENDANT JOSEPH R. BIDEN JR. IS THE PRESIDENT OF THE  
18 UNITED STATES AND CAN BE SERVED VIA THE UNITED STATES  
19 DEPARTMENT OF JUSTICE AT THE ADDRESS LISTED ABOVE.  
20
- 21 5. DEFENDANTS STATES OF GEORGIA, LOUISIANA, MISSOURI,  
22 NORTH CAROLINA, TEXAS, VIRGINIA, AND WYOMING ARE  
23 STATES AND TERRITORIES OF THE UNITED STATES AND CAN  
24

1 BE SERVED AT THE OFFICE OF THE ATTORNEY GENERAL FOR  
2 THEIR RESPECTIVE STATES.

3 6. DEFENDANTS TEXAS COMMISSION OF LICENSING AND  
4 REGULATION, MICHAEL ARISMENDEZ, AND KATIE BRICE ARE  
5 REPRESENTATIVES OF THE STATE LICENSING BOARD.

6 7. DEFENDANTS WILLIAM BOURLAND, BRIAN FINDLAY, MARIEL  
8 FERNENDEZ, JOYCE MAUK, CAROL SLOAN, LAURIE SNYDER,  
9 AND STEPHANIE SOKOLOSKY ARE MEMBERS OF THE TEXAS  
10 BEHAVIOR ANALYSIS ADVISORY BOARD WHO ARE BEING  
11 SUED INDIVIDUALLY FOR ABUSE OF OFFICE AND  
12 CORRUPTION.

13 **NOTICE OF CONSTITUTIONAL CHALLENGE**

14 8. PURSUANT TO RULE 5.1 OF THE FEDERAL RULES OF CIVIL  
15 PROCEDURE, THE PLAINTIFF HEREBY NOTIFIES ALL PARTIES  
16 OF CONSTITUTIONAL CHALLENGE OF BOTH FEDERAL AND  
17 STATE STATUTES.

18 **BACKGROUND AND FACTS OF THE CASE**

19 **LICENSURE:**

20 9. STARTING IN EARLY 2009, NEVADA AND OKLAHOMA BECAME  
21 THE FIRST STATES TO LICENSE BEHAVIOR ANALYSTS IN THE

1       9. THE MAJORITY OF STATES HAVE ENACTED SOME FORM OF  
2       THE MODEL LICENSURE ACT FROM THE ASSOCIATION OF  
3       PROFESSIONAL BEHAVIOR ANALYSTS<sup>1</sup>. THIS MODEL  
4       LEGISLATION IS VERY PROBLEMATIC BECAUSE DESPITE  
5       COURT PRECEDENT, IT TARNISHES THE CIVIL RIGHTS OF  
6       PROFESSIONALS AND THOSE THEY SERVE.

7  
8       10. SINCE 2009, MANY FORMS OF LEGISLATION HAVE BEEN  
9       INTRODUCED AND THEY TAKE THESE FORMS:

- 10  
11       a. IN ORDER TO BE LICENSED, YOU MUST BE CERTIFIED BY  
12            THE BEHAVIOR ANALYST CERTIFICATION BOARD  
13  
14       b. IN ORDER TO BE LICENSED, YOU MUST BE CERTIFIED BY  
15            THE BEHAVIOR ANALYST CERTIFICATION BOARD OR AN  
16            ENTITY THAT IS ACCREDITED BY THE NCCA OR ANSI  
17            THAT IS APPROVED BY THE BOARD  
18  
19       c. IN ORDER TO BE LICENSED, YOU MUST BE CERTIFIED BY  
20            A NON-PROFIT ENTITY THAT IS ACCREDITED BY THE  
21            NCCA OR ANSI THAT IS APPROVED BY THE BOARD  
22  
23       d. IN ORDER TO BE LICENSED, YOU MUST BE CERTIFIED BY  
24            THE BEHAVIOR ANALYST CERTIFICATION BOARD OR AN

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<sup>1</sup> [https://www.apbahome.net/resource/resmgr/pdf/APBA\\_ModelLicensureAct\\_Aug20.pdf](https://www.apbahome.net/resource/resmgr/pdf/APBA_ModelLicensureAct_Aug20.pdf)

1 ENTITY THAT IS ACCREDITED BY THE NCCA OR ANSI  
2 THAT IS EQUIVALENT

3 11. IN ADDITION TO THE STATUTORY REQUIREMENTS, MANY  
4 STATES THAT HAVE THE AUTHORITY TO APPROVE  
5 ALTERNATIVE CERTIFICATION BOARDS SUCH AS THE STATE  
6 OF TEXAS REFUSE TO DO SO THUS FORCING SOMEONE TO  
7 ASSOCIATE WITH THE BEHAVIOR ANALYST CERTIFICATION  
8 BOARD.

9 10. 12. THIS IS UNLIKE ANY OTHER FIELD. FOR EXAMPLE, FOR  
11 COUNSELING, PSYCHOLOGY, MEDICINE, SOCIAL WORK,  
12 MARRIAGE AND FAMILY THERAPY, ETC STATES HAVE  
13 REQUIREMENTS TO LICENSURE INDEPENDENT OF ANY 3RD  
14 PARTY CORPORATION. THUS, TO BECOME LICENSED YOU ARE  
15 NOT FORCED TO JOIN A CULT.

16  
17  
18  
19 **UNETHICAL PRACTICE:**

20 21 22 23 24 13. IN 1994, THE JUDGE ROTENBERG CENTER IN CANTON, MA  
GOT CLEARANCE FROM THE FDA TO SHOCK CHILDREN WITH  
AUTISM FOR WHAT THE SCHOOL DEEMED BAD BEHAVIOR.

1 THE FDA HAS BEEN TRYING TO REVOKE THIS SINCE 2020. SEE  
2 JUDGE ROTENBERG CENTER V FDA.

3 14. THEY STRAP THESE CHILDREN DOWN AND SHOCK THEM  
4 OVER AND OVER. IN FACT, ONE PATIENT THE COURT FOUND  
5 HE HAD BEEN SHOCKED 37 TIMES.



15. CURRENTLY, THE BEHAVIOR ANALYST CERTIFICATION  
16 BOARD, THE ASSOCIATION FOR PROFESSIONAL BEHAVIOR  
17 ANALYSTS, AND THE ASSOCIATION OF BEHAVIOR ANALYSIS  
18 INTERNATIONAL DE FACTO ENDORSES THE USE OF  
19 SHOCKING CHILDREN. WE KNOW THIS FOR VARIOUS  
20 REASONS:

a. THE ASSOCIATION OF BEHAVIOR ANALYSIS  
INTERNATIONAL HOSTS THE JUDGE ROTENBERG  
CENTER AT THEIR ANNUAL CONFERENCE EVERY YEAR<sup>23</sup>.

b. THE BEHAVIOR ANALYST CERTIFICATION BOARD HAS A LONG HISTORY OF APPROVING "ETHICS" CREDIT FOR THESE WORKSHOPS.

Symposium #520 CE Offered: BACB – Ethics  
The Right to Effective Treatment in the Crosshairs: Massachusetts Versus Judge Rotenberg Center

c. THE BEHAVIOR ANALYST CERTIFICATION BOARD CERTIFIES MANY CURRENT AND FORMER MEMBERS OF THE BOARD OF DIRECTORS AND STAFF OF THE JUDGE ROTENBERG CENTER. EXAMPLES INCLUDE:

- i. KALI KUHAREVICZ, M.S.ED., BCBA, LABA - CASE MANAGER
  - ii. JUSTIN HALTON, BCBA, LABA - DIRECTOR OF SPECIAL EDUCATION
  - iii. DAWN O'NEILL, PHD, BCBA-D, LABA - CLINICAL
  - iv. OLIVIA TREVES, M.S., BCBA, LABA - CLINICAL
  - v. MARYELLEN NEWMAN, M.S., LMHC, BCBA, LABA - CLINICAL
  - vi. DAVID PLANTE, M.ED, BCBA, LABA - SPECIAL EDUCATION TEACHER
  - vii. CASEY GALLAGHER, M.ED, BCBA - TESTING COORDINATOR
  - viii. ROBERT VON HEYN, PHD, BCBA - DIRECTOR OF CLINICAL SERVICES
  - ix. NATHAN BLENKUSH PH.D, BCBA-D - CLINICAL SERVICES
  - x. JESSICA E. VAN STRATTON, PH.D., BCBA-D, LBA - BOARD OF DIRECTORS

<sup>2</sup> <https://www.abainternational.org/events/program-details/event-detail.aspx?sid=72948>

<sup>3</sup> <https://www.abainternational.org/events/program-details/event-detail.aspx?sid=58651&by=Translational>

- 1                   xi. RICHARD MALOTT, PH.D., BCBA-D - BOARD OF DIRECTORS
- 2                   xii. JOSHUA K. PRITCHARD, PHD, BCBA-D - BOARD OF DIRECTORS
- 3                   xiii. NICK LOWTHER, MA, BCBA
- 4                   xiv. R. NICOLLE CARR, PH.D., BCBA-D, LBA-OK - ASST. DIRECTOR OF  
                  CLINICAL SERVICES
- 5                   xv. IRENE MCNULTY, M.A., BCBA, LABA - SPECIAL EDUCATION TEACHER
- 6                   xvi. DANIEL IVANOV, M.S., BCBA, LABA(MA) - RESIDENTIAL COORDINATOR
- 7                   xvii. BRITTANY GREENE, ED.S., NCSP, BCBA, LABA - MENTAL HEALTH ASST.
- 8                   xviii. AYDRIEN CATHCART, MSED, BCBA - SPECIAL EDUCATION TEACHER
- 9                   xix. KELLY ILSLEY, PSYD, ABPP, MBA, BCBA-D, OTR - PSYCHOLOGIST
- 10                  xx. FABIO BERTUOL, M.ED. BCBA - SPECIAL EDUCATION TEACHER
- 11                  xxi. SHANE SCHOFIELD, M.S. BCBA - CASE MANAGER
- 12                  xxii. DANNY QIAN, EDS, BCBA - CASE MANAGER
- 13                  xxiii. MENCIA LOPEZ, MA, BCBA - BEHAVIOR SPECIALIST
- 14                  xxiv. ALAN DIAS-MARTIN, MA, BCBA - CASE MANAGER
- 15                  xxv. ASLI UNVER, MA, BCBA - CLINICAL ASST.
- 16                  xxvi. DR. CHRISTINE C SANDS, PSYD, BCBA
- 17                  xxvii. SARAH CONNELLY, PHD, BCBA-D

16                  d. DESPITE BEING NOTIFIED OF THIS MULTIPLE TIMES THEY  
17                  WILLINGLY CHOOSE TO CONTINUE CERTIFYING PEOPLE  
18                  WHO ARE CONNECTED TO THE SHOCKING OF MINOR  
19                  CHILDREN WITH AUTISM.

21                  e. THEY CLAIM LACK OF JURISDICTION DESPITE HAVING  
22                  THE ABILITY TO CHOOSE WHO THEY ASSOCIATE WITH  
23                  UNDER BOY SCOUTS OF AMERICA V DALE (2000).

1 16. THIS PRACTICE IS CRUEL AND UNUSUAL PUNISHMENT. NO  
2 CHILD SHOULD BE SHOCKED FOR SIMPLY REFUSING TO TAKE  
3 THEIR COAT OFF BECAUSE THEY ARE COLD, OR BECAUSE  
4 THEY SAY A CURSE WORD.

5 17. IN ADDITION TO SHOCKING MINOR CHILDREN WHO ARE  
6 AUTISTIC, THEY HAVE A LONG HISTORY OF HUMILIATING AND  
7 DEGRADING THEM. THIS HAS BEEN GOING ON SINCE 1979.  
8 THIS SCHOOL HAS BEEN ACCUSED OF CHILD ABUSE,  
9 NEGLECT, IMPROPER AND UNSAFE USE OF RESTRAINTS,  
10 PUNISHMENTS DESIGNED TO HUMILIATE THE RESIDENTS,  
11 FAILURE TO PROVIDE PROPER NUTRITION, FAILURE TO  
12 PROVIDE PROPER MEDICAL CARE, AND SEVERE  
13 BRUIISING/LACERATIONS/SCARS FROM AVERSIVE  
14 INTERVENTIONS.

15 18. THE REPORT FOUND THAT STAFF PINCHED RESIDENTS TO  
16 MAKE THEM REPEAT PHRASES UTTERED BY STAFF, AND  
17 THREATENED RESIDENTS WITH THE USE OF AVERSIVES IF  
18 THEY DID NOT COMPLY WITH THE STAFF'S ARBITRARY  
19 DEMANDS.

19. THE INSTITUTE WAS FOUND TO HAVE REMOVED RECORDS,  
MAKING THEM INACCESSIBLE TO INVESTIGATORS AND FAMILY.

20. AN INVESTIGATION FOUND THAT RESIDENTS WERE PROVOKED INTO VIOLENT AND AGGRESSIVE BEHAVIOR AS PART OF THE FILMING OF A BEFORE-AND-AFTER VIDEO, WHERE STAGED CLIPS OF THE RESIDENTS RESPONDING TO PROVOCATION WERE SHOWN AS EXAMPLES OF HOW THEY HAD BEHAVED BEFORE TREATMENT.

21. IN 1980, 25-YEAR-OLD ROBERT COOPER DIED OF A  
HEMORRHAGIC BOWEL OBSTRUCTION.

22. IN 1981, DANNY ASWAD, A 14-YEAR-OLD AUTISTIC BOY, DIED AT THE JRC (THEN CALLED THE BEHAVIOR RESEARCH INSTITUTE) WHILE RESTRAINED FACE-DOWN ON A BED.

23. IN 1985, VINCENT MILLETICH, A 22-YEAR-OLD AUTISTIC  
MAN, DIED AT THE INSTITUTE. HE HAD BEEN RESTRAINED AND  
FORCED TO WEAR A WHITE NOISE EMITTING SENSORY  
DEPRIVATION HELMET WHEN HE DIED OF ASPHYXIATION  
AFTER HAVING AN EPILEPTIC SEIZURE.

24. IN 1987, ABIGAIL GIBSON, A 29-YEAR-OLD WOMAN WITH A SEIZURE DISORDER, WAS DETAINED AT THE BEHAVIORAL

1 RESEARCH INSTITUTE AND SUBJECT TO REGULAR PHYSICAL  
2 AVERSIVES BY THE PROGRAM THERE. SHE HAD A HEART  
3 ATTACK IN HER ROOM AT NIGHT, AND DIED TWO DAYS LATER  
4 AT STURDY MEMORIAL HOSPITAL.  
5

6 25. IN 1990, LINDA CORNELISON, A 19-YEAR-OLD NON-VERBAL  
7 AND INTELLECTUALLY DISABLED RESIDENT, DIED OF  
8 COMPLICATIONS RELATED TO A RUPTURED BOWEL. AN  
9 INVESTIGATION OF CORNELISON'S DEATH, CONDUCTED BY  
10 THE MASSACHUSETTS DEPARTMENT OF MENTAL  
11 RETARDATION, REPORTED THAT THE TREATMENT WAS  
12 "INHUMANE BEYOND ALL REASON" AND VIOLATED  
13 "UNIVERSAL STANDARDS OF HUMAN DECENCY."

14 26. IN 1998, DISABLED 16-YEAR-OLD SILVERIO GONZALEZ DIED  
15 IN THE INSTITUTE'S CUSTODY. HE WAS HOUSED THERE FOR  
16 11 MONTHS BEFORE MAKING AN ATTEMPT TO FREE HIMSELF  
17 BY JUMPING FROM A TRANSPORT BUS. HE DIED FROM HEAD  
18 TRAUMA FROM THE FALL.  
19

20 27. IN 2002, AN AUTISTIC TEENAGER FROM NEW YORK CITY  
21 NAMED ANDRE MCCOLLINS WAS RESTRAINED ON A  
22 FOUR-POINT BOARD AND SHOCKED 31 TIMES OVER THE  
23  
24

1 COURSE OF SEVEN HOURS. THE FIRST SHOCK WAS GIVEN  
2 AFTER HE DID NOT TAKE OFF HIS COAT WHEN ASKED;  
3 SUBSEQUENT SHOCKS WERE GIVEN AS PUNISHMENTS FOR  
4 SCREAMING AND TENSING UP WHILE BEING SHOCKED.  
5

6 28. IN 2010, THE AMERICAN HUMAN RIGHTS ORGANIZATION,  
7 DISABILITY RIGHTS INTERNATIONAL, FILED AN APPEAL WITH  
8 THE OFFICE OF THE UNITED NATIONS SPECIAL RAPPORTEUR  
9 ON TORTURE, STATING THEY BELIEVED THE RESIDENTS  
10 WERE BEING SUBJECTED TO HUMAN RIGHTS ABUSES DUE TO  
11 THE CENTER'S USE OF AVERSIVES. IN 2013, THE SPECIAL  
12 RAPPORTEUR DECLARED THAT THE USE OF THE GED DEVICE  
13 VIOLATED THE UNITED NATIONS CONVENTION AGAINST  
14 TORTURE.  
15

16 29. IT COSTS \$275,000 PER YEAR TO KEEP A RESIDENT AT THE  
17 JRC, WHICH IS PAID FOR IN TAX DOLLARS.  
18

19 30. IN 2006, IT WAS FOUND THAT 14 OF THE SCHOOL'S 17  
20 PSYCHOLOGISTS, INCLUDING THE DIRECTOR OF  
21 PSYCHOLOGY, LACKED PROPER LICENSES. BECAUSE THE  
22 STATE REIMBURSES THE JRC FOR SERVICES RENDERED BY  
23 DOCTORS, THE JRC HAD OVERBILLED THE STATE BY NEARLY  
24

1           \$800,000. FOR MISREPRESENTING THE LICENSING STATUS OF  
2           THE PSYCHOLOGISTS, THE BOARD OF REGISTRATION OF  
3           PSYCHOLOGISTS FINED THE JRC \$43,000, AND MATTHEW  
4           ISRAEL \$29,600.  
5

6 **TEXAS STANDARD FOR LICENSURE:**

7           31. SINCE 2017, THE STATE OF TEXAS, TEXAS DEPARTMENT OF  
8           LICENSING AND REGULATION, AND BEHAVIOR ANALYST  
9           ADVISORY BOARD HAVE REFUSED TO APPROVE AN  
10           ALTERNATIVE CERTIFICATION ROUTE TO THE BEHAVIOR  
11           ANALYST CERTIFICATION BOARD.

13           32. THE TEST THE STATE HAS DESIGNED IS WHETHER OR NOT  
14           THE PROGRAM HAS THE SAME STANDARDS AS THE BEHAVIOR  
15           ANALYST CERTIFICATION BOARD. EVERY TIME AN  
16           ALTERNATIVE IS PRESENTED, IT IS COMPARED TO THE  
17           BEHAVIOR ANALYST CERTIFICATION BOARD RATHER THAN  
18           BEING CONSIDERED INDEPENDENTLY AS TO WHETHER THE  
19           STANDARDS ARE ENOUGH TO PROTECT CONSUMERS.

21           33. THE STATE OF TEXAS HAS REFUSED TO CREATE A  
22           PROCESS BY WHICH ONE CAN APPLY FOR LICENSURE BY  
23           RECIPROCITY AS REQUIRED BY THE BEHAVIOR ANALYST  
24

1 LICENSURE ACT. THE LAW IS CLEAR AND STATES THAT THE  
2 DEPARTMENT "SHALL" ISSUE A LICENSE VIA RECIPROCITY IN  
3 CERTAIN CIRCUMSTANCES. THE LEGISLATURE CLEARLY  
4 INTENDED A PROCESS BY RECIPROCITY WHICH IS WHY THEY  
5 ADDED THE PROVISION TO THE LAW. IF YOU HAVE TO MEET  
6 ALL THE INITIAL REQUIREMENTS THAT PROVISION WOULD  
7 SERVE NO PURPOSE.

9 **DUE PROCESS - LACK OF GRANDFATHER PERIOD AND**

10 **REASONABLE NOTICE:**

12 34. WHEN THE VARIOUS STATES CREATED THE LAWS, MANY  
13 WERE ALREADY PRACTICING AND HAD GOTTEN CERTIFIED.  
14 THE STATE NOR THE LEGISLATURE PROVIDED REASONABLE  
15 NOTICE OR CONCESSION FOR THOSE WHO HAD ALREADY  
16 COMPLETED REQUIREMENTS TO PRACTICE IN THE  
17 RESPECTIVE FIELD.

19 **DUE PROCESS - LACK OF HEARING (TEXAS RECIPROCITY):**

20 35. ON 7 APRIL 2022, THE TEXAS DEPARTMENT OF LICENSING  
21 AND REGULATION DENIED AN APPLICATION BY THE PLAINTIFF  
22 VIA RECIPROCITY CALLING IT INVALID. DESPITE THE LAW  
23 SAYING THAT THEY "SHALL" HAVE A PROCESS FOR THIS. IT

1 ALSO SAYS THEY CAN ONLY "DENY" A LICENSE AFTER A DUE  
2 PROCESS HEARING.  
3  
4

5 Mr. Moates:  
6  
7

8 TLDR has received two applications from you for a Behavior Analyst license. The first application is titled  
9 by you as an "Application for Reciprocity". Please be advised that this is an invalid application that is not  
10 generated or approved by TDLR. Additionally, you were informed by TDLR Assistant General Counsel,  
11  
12

**DUE PROCESS - LACK OF APPROPRIATE TIME FRAME (TEXAS):**

13 36. THE PLAINTIFF HAS BEEN TRYING TO GET LICENSED SINCE  
14 DECEMBER OF 2021. THE DEPARTMENT HAS FAILED TO TAKE  
15 ACTION, ONLY ENGAGING IN CONSTANT DELAYS.  
16  
17

18 37. THE BEHAVIOR ANALYST ADVISORY BOARD HAS MET  
19 MULTIPLE TIMES IN 2022 IN WHAT THEY CALL A  
20 "WORKGROUP." THEY CONDUCTED OFFICIAL BOARD  
21 BUSINESS THAT THEY WOULD NOT HAVE PARTICIPATED IN IF  
22 NOT FOR THEIR POSITION ON THE BOARD. THEY DID NOT  
23 HAVE A QUORUM. THUS, THE RECOMMENDATION NOT TO  
24 RECOGNIZE ALTERNATIVE CERTIFICATION BOARDS THEY  
MADE TO THE FULL BOARD SHOULD BE DEEMED NULL AND  
VOID.

31 38. FURTHER, THE BEHAVIOR ANALYST ADVISORY BOARD HAS  
32 NOT FOLLOWED ITS OWN RULES. RULE §121.69 (A) STATES  
33  
34

1       “THE ADVISORY BOARD SHALL MEET AT LEAST TWICE EACH  
2       YEAR AND AT THE CALL OF THE PRESIDING OFFICER OF THE  
3       COMMISSION OR THE EXECUTIVE DIRECTOR.” PRIOR TO 7  
4       JUNE 2022, THE BEHAVIOR ANALYST ADVISORY BOARD HAD  
5       NOT MET IN OVER A YEAR.  
6

7       **DUE PROCESS - VAGUE AMBIGUOUS STATUTES AND**  
8       **ADMINISTRATIVE RULES:**

9       39. MUCH OF THE BEHAVIOR ANALYST STATUTES IN THE  
10       DIFFERENT STATES, IS VAGUE, AMBIGUOUS, AND UNCLEAR.  
11       EXAMPLES INCLUDE BUT ARE NOT LIMITED TO:

13       **TEXAS**

- 14       a. *THE TEXAS LAW DEFINES CERTIFYING ENTITIES AND*  
15       *REQUIRES DEPARTMENTAL APPROVAL FOR*  
16       *ALTERNATIVES. BUT WHO HAS THE AUTHORITY TO GIVE*  
17       *DEPARTMENTAL APPROVAL. THE EXECUTIVE DIRECTOR?*  
18       *COMMISSION? PROGRAM DIRECTOR? GENERAL*  
19       *COUNSEL?*
- 21       b. *THE TEXAS LAW EXEMPTS THOSE WHO “DO NOT*  
22       *INVOLVE DIRECT SERVICES TO INDIVIDUALS.” DOES THIS*

1 INCLUDE ANALYSTS OF THE FBI WHO PROVIDE  
2 INFORMATION REGARDING CRIMINALS?

- 3
- 4 c. THE LAW AND THE TEXAS ADMINISTRATIVE CODE DO  
5 NOT DEFINE WHAT IT WOULD TAKE TO BECOME A  
6 DEPARTMENT APPROVED ENTITY. THUS, A VIOLATION OF  
7 DUE PROCESS OF FAIR NOTICE OF WHAT IS REQUIRED.
- 8 d. THE ADMINISTRATIVE CODE DOES NOT COMPLY WITH  
9 THE LAW REGARDING A PROCESS FOR RECIPROCITY  
10 AND THUS DENIES FAIR NOTICE OF PROCESS.

11

**LEGISLATIVE INTENT**

12 40. THE STATUTE INTENDED FOR ALTERNATIVE CERTIFICATION.

- 13
- 14 a. THE LANGUAGE IS CLEAR "CERTIFYING ENTITY" MEANS  
15 THE NATIONALLY ACCREDITED BEHAVIOR ANALYST  
16 CERTIFICATION BOARD OR ANOTHER ENTITY THAT IS  
17 ACCREDITED BY THE NATIONAL COMMISSION FOR  
18 CERTIFYING AGENCIES OR THE AMERICAN NATIONAL  
19 STANDARDS INSTITUTE" EMPHASIS ADDED.

20

21 41. IT ALSO INTENDED FOR THOSE FROM THE QUALIFIED  
22 APPLIED BEHAVIOR ANALYSIS BOARD TO BE ABLE TO BE  
23 CERTIFIED.

1 a. THE LANGUAGE RECOGNIZES THE "DESIGNATED AS AN  
2 "APPLIED BEHAVIOR ANALYSIS TECHNICIAN..." THE  
3 APPLIED BEHAVIOR ANALYSIS TECHNICIAN IS A  
4 CREDENTIAL THAT IS ONLY OFFERED BY THE QUALIFIED  
5 APPLIED BEHAVIOR ANALYSIS CREDENTIALING BOARD.  
6 IT IS A FEDERAL TRADEMARK THAT IS PROTECTED FROM  
7 BEING USED BY ANY OTHER ENTITY<sup>4</sup>.

8  
9 b. THEY CLEARLY RECOGNIZE THAT THE QABA IS A  
10 BEHAVIOR ANALYSIS BOARD.

11  
12 42. IT IS INTENDED FOR LICENSE VIA RECIPROCITY.

13 a. THE LANGUAGE STATES "THE DEPARTMENT SHALL ISSUE  
14 A LICENSE TO A PERSON WHO IS CURRENTLY LICENSED  
15 AS A BEHAVIOR ANALYST OR AS AN ASSISTANT  
16 BEHAVIOR ANALYST FROM ANOTHER STATE OR  
17 JURISDICTION THAT IMPOSES LICENSURE  
18 REQUIREMENTS SIMILAR TO THOSE SPECIFIED IN THIS  
19 CHAPTER."

20  
21 **DUE PROCESS - BEHAVIOR ANALYST CERTIFICATION BOARD NOT**  
22 **REQUIRED TO FOLLOW DUE PROCESS:**  
23

24  
4 <https://tmsearch.uspto.gov/bin/showfield?f=doc&state=4803:d9zdq6.3.1>

1 43. ANY LAW REQUIRING CERTIFICATION FROM THE BEHAVIOR  
2 ANALYST CERTIFICATION BOARD VIOLATES DUE PROCESS.  
3 THAT IS BECAUSE THE BEHAVIOR ANALYST CERTIFICATION  
4 BOARD IS NOT REQUIRED TO ENGAGE IN DUE PROCESS  
5 REGARDING ITS REQUIREMENTS AS A PRIVATE  
6 CORPORATION.

8 44. FURTHER, AS THE SUPREME COURT HELD IN BOY SCOUTS  
9 OF AMERICA V DALE (2000), PRIVATE CORPORATIONS CANNOT  
10 BE FORCED TO ASSOCIATE WITH ANY PERSON. THUS, IF THE  
11 BEHAVIOR ANALYST CERTIFICATION BOARD CHOOSES NOT TO  
12 ASSOCIATE WITH SOMEONE THEY WOULD NOT BE ELIGIBLE  
13 FOR LICENSURE WHICH WOULD BE A VIOLATION OF DUE  
14 PROCESS AND THE FIRST AMENDMENT.

16 **DUE PROCESS - MISSOURI CONFLICTING ADMINISTRATIVE RULES:**

18 45. THE STATE OF MISSOURI HAS DENIED DUE PROCESS BY  
19 GIVING REASONABLE EXPECTATIONS OF WHAT IS REQUIRED  
20 TO BECOME LICENSED IN THEIR STATE. IN THEIR DEFINITION  
21 THEY DEFINE A CERTIFYING ENTITY AS "CERTIFYING  
22 ENTITY—BEHAVIOR ANALYST CERTIFICATION BOARD  
23 (BACB)®."

1 46. IN THE RULES UNDER CHAPTER 3, THEY DEFINE A  
2 CERTIFYING ENTITY AS "A CERTIFYING ENTITY SHALL BE  
3 ACCREDITED TO CERTIFY PRACTITIONERS OF APPLIED  
4 BEHAVIOR ANALYSIS BY A NATIONALLY-RECOGNIZED AGENCY  
5 INCLUDING BUT NOT LIMITED TO: (A) NATIONAL COMMISSION  
6 FOR CERTIFYING AGENCIES; OR (B) AMERICAN NATIONAL  
7 STANDARDS INSTITUTE."

8  
9 47. DUE TO THIS CONFLICT, THOSE WHO APPLIED FOR  
10 LICENSURE BASED ON CERTIFICATION FROM THE QUALIFIED  
11 APPLIED BEHAVIOR ANALYSIS CREDENTIALING BOARD OR  
12 BEHAVIOR INTERVENTION CERTIFICATION COUNCIL HAVE  
13 BEEN TOLD THAT THEY WOULD NOT QUALIFY DESPITE  
14 MEETING THE REQUIREMENTS OF CHAPTER 3. QABA IS  
15 ACCREDITED BY ANSI AND BICC BY NCCA.

16  
17 **EQUAL PROTECTION - FAILURE TO PROVIDE OTHER**  
18 **ORGANIZATION REPRESENTATION ON ADVISORY BOARDS**

20 48. AS LICENSING, ADVISORY, AND OTHER BOARDS RELATED  
21 TO THE PRACTICE OF BEHAVIOR ANALYSIS HAVE BEEN  
22 CREATED, THEY HAVE BEEN CREATED WITH  
23 REPRESENTATIVES FROM THE BEHAVIOR ANALYST

1 CERTIFICATION BOARD ONLY. CURRENTLY, NO STATE HAS  
2 ALLOWED MEMBERS FROM ANY OTHER CERTIFICATION  
3 BOARD REPRESENTATION ON THE LICENSING BOARDS.  
4

5 49. FOR EXAMPLE, TEXAS REFUSES TO ALLOW A  
6 REPRESENTATIVE FROM QABA OR BICC ON ITS BEHAVIOR  
7 ANALYST ADVISORY BOARD.  
8

9 **EQUAL PROTECTION - FAILURE TO EVALUATE ALTERNATIVES IN**  
10 **THE SAME WAY THE BEHAVIOR ANALYST CERTIFICATION BOARD**  
11 **WAS CONSIDERED**

12 50. THE LICENSING BOARDS (WHOSE STATES ALLOW  
13 ALTERNATIVES) WHEN EVALUATING ALTERNATIVES HAS  
14 CONSISTENTLY USED THE BEHAVIOR ANALYST  
15 CERTIFICATION BOARD'S MODEL TO COMPARE  
16 ALTERNATIVES.  
17

18 51. FURTHER, MANY OF THE STATE LAWS LIKE TEXAS, WRITE  
19 THE BEHAVIOR ANALYST CERTIFICATION BOARD INTO THE  
20 LAW AND SET A DIFFERENT STANDARD FOR ALTERNATIVES.  
21 SUCH AS THE FOLLOWING LANGUAGE: "CERTIFYING ENTITY"  
22 MEANS THE NATIONALLY ACCREDITED BEHAVIOR ANALYST  
23 CERTIFICATION BOARD OR ANOTHER ENTITY THAT IS  
24

1 ACCREDITED BY THE NATIONAL COMMISSION FOR  
2 CERTIFYING AGENCIES OR THE AMERICAN NATIONAL  
3 STANDARDS INSTITUTE TO ISSUE CREDENTIALS IN THE  
4 PROFESSIONAL PRACTICE OF APPLIED BEHAVIOR ANALYSIS  
5 AND APPROVED BY THE DEPARTMENT." THE BEHAVIOR  
6 ANALYST CERTIFICATION BOARD GOT APPROVAL WITHOUT  
7 THE NEED FOR DEPARTMENTAL APPROVAL BY VIRTUE OF  
8 THEIR NCCA ACCREDITATION BUT OTHER ORGANIZATIONS  
9 DESPITE HAVING ACCREDITATION ARE REQUIRED TO GET  
10 DEPARTMENTAL APPROVAL AND THE DEPARTMENT REFUSES  
11 TO APPROVE ALTERNATIVES.  
12  
13

**14 FREE SPEECH - USE OF THE TERM BEHAVIOR ANALYST**

15 52. THE TEXAS BEHAVIOR ANALYST LICENSURE ACT IS ILLEGAL  
16 BECAUSE IT RESTRICTS THE TERM BEHAVIOR ANALYST  
17 BEYOND OCCUPATIONAL PRACTICE. IN FACT IT SAYS THAT  
18 UNLESS YOU ARE LICENSED YOU MAY NOT USE THE TERM  
19 UNLESS YOU ARE EXEMPT BY THE STATUTE.  
20  
21

**BUSINESS STRUCTURE DISCRIMINATION - LOUISIANA**

22 53. THE STATE OF LOUISIANA AMONG OTHERS HAS CREATED A  
23 LAW THAT SPECIFICALLY DISCRIMINATES AGAINST  
24

1           CORPORATIONS WHO ARE NOT NON-PROFIT. IT BARS THEM  
2           FROM PURSUING LICENSURE.

3           **CORRUPTION**

4           54. MEMBERS OF THE TEXAS BEHAVIOR ANALYSIS ADVISORY  
5           BOARD HAVE ENGAGED IN CORRUPTIVE PRACTICES. THEY  
6           DO BY USING THEIR POSITION TO LIMIT THE NUMBER OF  
7           PROVIDERS THEREBY MAKING THEIR BUSINESS MORE  
8           PROFITABLE AND SOUGHT OUT. ELEMENTS OF ABUSE OF  
9           OFFICE ARE:

10           a. A PUBLIC SERVANT COMMITS AN OFFENSE IF, WITH  
11           INTENT TO OBTAIN A BENEFIT OR WITH INTENT TO HARM  
12           OR DEFRAUD ANOTHER, HE INTENTIONALLY OR  
13           KNOWINGLY (1) VIOLATES A LAW RELATING TO THE  
14           PUBLIC SERVANT'S OFFICE OR EMPLOYMENT; OR (2)  
15           MISUSES GOVERNMENT PROPERTY, SERVICES,  
16           PERSONNEL, OR ANY OTHER THING OF VALUE  
17           BELONGING TO THE GOVERNMENT THAT HAS COME  
18           INTO THE PUBLIC SERVANT'S CUSTODY OR POSSESSION  
19           BY VIRTUE OF THE PUBLIC SERVANT'S OFFICE OR  
20           EMPLOYMENT.

1 b. MEMBERS OF THE BEHAVIOR ANALYST ADVISORY  
2 BOARD OBTAINED BOARD SEATS WHERE THEY WOULD  
3 HAVE THE OPPORTUNITY TO INFLUENCE THE LICENSURE  
4 OF THE PUBLIC. THEY HAVE WILLFULLY AND  
5 INTENTIONALLY SOUGHT TO BLOCK AS MANY  
6 PROVIDERS AS POSSIBLE FROM PRACTICING BEHAVIOR  
7 ANALYSIS UNLESS THEIR DEMANDS ARE MET. THEY  
8 SEEK TO 1) BLOCK PEOPLE FROM PRACTICING IN ORDER  
9 TO BENEFIT THEIR PRACTICES BY MAKING THEM MORE  
10 SOUGHT OUT AND PROFITABLE OR 2) REQUIRE BACB  
11 CERTIFICATION GIVING THEIR ASSOCIATIONS MORE  
12 PROFIT. EVERY SINGLE BOARD MEMBER IS EITHER A  
13 PRACTICING BEHAVIOR ANALYST OR MEDICAL  
14 PROVIDER. THAT OR THEY ARE A MEMBER OF AN  
15 AUTISM FOCUSED ASSOCIATION THAT ENGAGES IN  
16 FUNDRAISING.

20 **DUE PROCESS - TEXAS PUBLIC INFORMATION ACT:**

21 55. THROUGHOUT THIS PROCESS OVER THE LAST SIX  
22 MONTHS, THE PLAINTIFF, IN HIS CAPACITY AS A JOURNALIST,  
23 HAS REQUESTED DOCUMENTS FROM THE TEXAS

1 DEPARTMENT OF LICENSING AND REGULATION. DURING THIS  
2 THE PLAINTIFF HAS REQUESTED DOCUMENTS FROM THE  
3 GOVERNMENT UNDER THE PUBLIC INFORMATION ACT TO  
4 WHICH THEY HAVE REFUSED TO PROVIDE AND SOUGHT AN  
5 OPINION FROM THE ATTORNEY GENERAL AS REQUIRED BY  
6 THE LAW. HOWEVER, SINCE THE ATTORNEY GENERAL AND  
7 HIS OFFICER WERE PARTIES TO THE LITIGATION, THE  
8 PLAINTIFF ARGUES THIS WAS A CONFLICT OF INTEREST THUS  
9 DENYING HIM DUE PROCESS.  
10

12 56. TDLR ADMITS IN A LETTER THAT THE GIVING THE PUBLIC  
13 INFORMATION ABOUT THE OPERATIONS WOULD "DAMAGE  
14 TDLR'S POSITION..."

15 or anticipated at the time TDLR received this request. Moreover, disclosure of the responsive records  
16 would permit the requestor to circumvent the rules of discovery and would reveal information that  
17 would damage TDLR's position at this juncture. Therefore, TDLR believes that the responsive  
information represented in Exhibit 2 should be excepted from public disclosure, in its entirety,  
pursuant to Section 552.103 of the Government Code.

18 **LAWS AND RULES CHALLENGED**  
19

20 **TRICARE OPERATIONS MANUAL 6010.59-M, APRIL 1, 2015**

21 **(SPECIFICALLY ONLY ALLOWING BCBA FOR BEHAVIOR ANALYSTS  
22 IN STATES THAT DO NOT HAVE LICENSURE)**

1 **FLORIDA ADMINISTRATIVE CODE 63N-1.013 SERVICES FOR YOUTHS**  
2 **WITH DEVELOPMENTAL DISABILITY. (SPECIFICALLY (4)(B)**  
3 **REQUIRING CERTIFICATION BY THE BEHAVIOR ANALYST**  
4 **CERTIFICATION BOARD)**

6

7 **FLORIDA MEDICAID BEHAVIOR ANALYSIS SERVICES**  
8 **COVERAGE POLICY SEC. 3.2 (BEHAVIOR ANALYST CERTIFICATION**  
9 **BOARD ONLY)**

11

12 **FLORIDA ADMINISTRATIVE CODE 65G-4.0011 RECOGNIZED**  
13 **CERTIFICATION ORGANIZATIONS FOR CERTIFIED BEHAVIOR**  
14 **ANALYSTS. (SPECIFICALLY REQUIRING CERTIFICATION BY THE**  
15 **BEHAVIOR ANALYST CERTIFICATION BOARD OR A NON-PROFIT)**

17

18 **GEORGIA BEHAVIOR ANALYST LICENSURE ACT AND**  
19 **ADMINISTRATIVE RULES**

21

22 **GEORGIA PART II POLICIES AND PROCEDURES for AUTISM**  
23 **SPECTRUM DISORDER SERVICES - MEDICAID SEC. 601.1.1**  
24 **(BEHAVIOR ANALYST CERTIFICATION BOARD ONLY)**

1                   **LOUISIANA BEHAVIOR ANALYST LICENSURE ACT AND**  
2                   **ADMINISTRATIVE RULES**

3

4

5                   **LOUISIANA MEDICAID PROGRAM - CHAPTER 4 SEC 4.4 (REQUIRES**  
6                   **BEHAVIOR ANALYST LICENSURE AND BEHAVIOR ANALYST**  
7                   **CERTIFICATION BOARD REQUIREMENTS)**

8

9

10                  **MISSOURI BEHAVIOR ANALYST LICENSURE ACT AND**  
11                  **ADMINISTRATIVE RULES**

12

13                  **TEXAS BEHAVIOR ANALYST LICENSURE ACT AND**  
14                  **ADMINISTRATIVE RULES**

15

16                  **NORTH CAROLINA BEHAVIOR ANALYST LICENSURE ACT AND**  
17                  **ADMINISTRATIVE RULES**

18

19

20                  **VIRGINIA BEHAVIOR ANALYST ADMINISTRATIVE RULES ONLY**

21

22                  **WYOMING BEHAVIOR ANALYST STATUTE ONLY**

## **ARGUMENT**

WHEN OUR COUNTRY WAS FOUNDED, IT WAS FUNDAMENTAL THAT THE BILL OF RIGHTS WAS CREATED TO PROTECT THE RIGHTS OF PEOPLE FROM GOVERNMENT OVERREACH.

FORCING SOMEONE TO BECOME CERTIFIED BY AN  
ORGANIZATION THAT HAS MORAL AND PHILOSOPHICAL  
DIFFERENCES IS NOT ONLY UNETHICAL, IT IS UNCONSTITUTIONAL.  
THE STATES CANNOT FORCE SOMEONE TO VIOLATE THEIR  
RELIGION, SPEECH, OR ASSOCIATION IN ORDER TO OBTAIN A  
LICENSE TO PRACTICE. IT IS UNLAWFUL.

FURTHER, THE TEST CONSIDERING ALTERNATIVES SHOULD NOT BE IF THEY ARE RUN THE SAME WAY BECAUSE THAT WOULD DEFEAT THE PURPOSE OF FREE SPEECH. IN FACT, THE ARGUMENT THAT IN ORDER FOR ALTERNATIVES TO QUALIFY THEY MUST BE LIKE THE BEHAVIOR ANALYST CERTIFICATION BOARD IS CONTRARY TO THE FREE SPEECH PROVISIONS OF THE FIRST AMENDMENT. THE ARGUMENT SHOULD NOT BE IF THEY ARE THE SAME. THE QUESTION SHOULD BE: IF WE LICENSE THESE INDIVIDUALS WOULD THEY POSE A THREAT TO THE PUBLIC. THE ANSWER IS NO. THERE IS NO EVIDENCE TO SUPPORT SUCH A CLAIM. IN FACT, PRIOR TO

1 2017, MANY HAD PRACTICED UNDER ALTERNATIVE CERTIFICATION  
2 WITHOUT THE NEED FOR A LICENSE AND DID NOT HAVE ANY  
3 ISSUES. IN ADDITION, THOSE CERTIFIED BY THE QUALIFIED  
4 APPLIED BEHAVIOR ANALYSIS CREDENTIALING BOARD AND THE  
5 BEHAVIOR INTERVENTION CERTIFICATION COUNCIL PRACTICE  
6 ACROSS THE UNITED STATES WITHOUT ANY ISSUE. THIS IS AN  
7 UNFOUNDED ABUSE OF GOVERNMENT OVERREACH WITH THE  
8 ATTEMPT TO RESTRICT THE MARKET AND PREVENT OTHERS FROM  
9 PRACTICING. THOSE CERTIFIED AS A QUALIFIED BEHAVIOR  
10 ANALYST GO THROUGH COMPLETING A MASTERS DEGREE IN A  
11 RELATED FIELD TO BEHAVIOR ANALYSIS, 1,500 EXPERIENCE  
12 HOURS, 270 HOURS OF ANALYTIC COURSEWORK, BACKGROUND  
13 CHECK, LETTERS OF RECOMMENDATION, PASS A PSYCHOMETRIC  
14 EXAM, AND AGREE TO AN ETHICS CODE. ANY STATE LAW THAT  
15 LIMITS IT TO ONE BOARD IS UNLAWFUL BECAUSE IT FORCES  
16 PEOPLE TO ASSOCIATE WITH AN ORGANIZATION IN VIOLATION OF  
17 SPEECH AND ASSOCIATION PREVISIONS. ALSO, IF THE BEHAVIOR  
18 ANALYST CERTIFICATION BOARD WERE TO INVOKE ITS RIGHT  
19 UNDER BOY SCOUTS OF AMERICA V DALE (2000) TO NOT  
20  
21  
22  
23  
24

1 ASSOCIATE WITH SOMEONE, THAT PERSON WITHOUT DUE  
2 PROCESS WOULD BE UNABLE TO OBTAIN A LICENSE TO PRACTICE.  
3

4 FURTHERMORE, ONE BOARD HURTS PATIENTS AND CLIENTS.  
5 IT TAKES AWAY THEIR RIGHT TO CHOOSE AND LEAVES LESS  
6 COMPETITION. IF THERE WERE MULTIPLE ALTERNATIVES, THE  
7 BEHAVIOR ANALYST CERTIFICATION BOARD WOULD BE REQUIRED  
8 TO COMPETE AND THUS BE HELD TO A HIGHER STANDARD. THEY  
9 DON'T WANT THIS, THEY WANT TO BE THE ONLY STANDARD AND  
10 ITS WHY PEOPLE LIKE THE PRESIDENT OF THE VIRGINIA  
11 ASSOCIATION FOR BEHAVIOR ANALYSTS CAN CHARGE \$6,000 IN  
12 SPEAKING ENGAGEMENT FEES<sup>5</sup>. THESE KINDS OF PRACTICES ARE  
13 UNETHICAL AND THEY LEAVE PATIENTS WITHOUT CHOICE IN WHO  
14 THEIR PROVIDERS ARE.  
15

16 THE GOVERNMENT DOES NOT EVEN CONDONE THE  
17 BEHAVIOR OF THE JUDGE ROTENBERG CENTER SO IT IS FAIR TO  
18 SAY THAT THE BEHAVIOR ANALYST CERTIFICATION BOARD SHOULD  
19 NOT EITHER. HOWEVER, IF THEY ARE GOING TO, IT IS MORALLY  
20 AND ETHICALLY WRONG TO EXPECT THAT ANYONE WHO WANTS  
21 TO PRACTICE HAS TO BE A PART OF THE HORRIBLE PRACTICE OF  
22  
23

24 <sup>5</sup> <https://web.archive.org/web/20220407211546/https://atlanticspeakersbureau.com/dr-amanda-randall-autism/>

1 SHOCKING CHILDREN. FURTHER, MULTIPLE CHILDREN HAVE DIED  
2 WHILE IN THEIR CUSTODY AS CITED ABOVE. THIS PRACTICE IS  
3 CRUEL AND UNUSUAL PUNISHMENT AND A CLEAR VIOLATION OF  
4 THESE PATIENTS EIGHTH AMENDMENT RIGHTS. THE GOVERNMENT  
5 HAS TAKEN STEPS TO PROTECT THESE STUDENTS BY BANNING  
6 THE USE OF THE DEVICE AND THE WAY IT IS USED. IN MY OPINION,  
7 THE JUDICIAL SYSTEM FAILED THESE STUDENTS BY REINSTATING  
8 THIS PRACTICE. WE DO NOT TREAT PRISONERS AT GUANTANAMO  
9 BAY THIS BADLY. AS THE UNITED NATIONS HAS ARGUED THIS IS  
10 TORTURE.

11  
12 IT WOULD ALSO BE CRUEL AND UNUSUAL TO FORCE A  
13 BEHAVIOR ANALYST TO ASSOCIATE WITH AN ORGANIZATION THAT  
14 APPROVES THIS PRACTICE. YOU PUNISH THEM BY TAKING AWAY  
15 THEIR RIGHT TO PRACTICE AND THAT IS CRUEL AND UNUSUAL  
16 EVEN FOR THE GOVERNMENT. IT IS A VIOLATION OF THE EIGHTH  
17 AMENDMENT.

18  
19 NEXT WE HAVE A STATE LAW ISSUE. THE TERM BEHAVIOR  
20 ANALYST IS RESTRICTED BY MANY STATES INCLUDING THE STATE  
21 OF TEXAS. THIS TERM IS RESTRICTED BEYOND THE ACTIVE  
22 PRACTICE OF BEHAVIOR ANALYSIS AND IS A FIRST AMENDMENT  
23  
24

1 VIOLATION. "ANY INTEREST THE GOVERNMENT CAN CLAIM IN  
2 PROTECTING CLIENTS FROM MANIPULATION OR EXPLOITATION BY  
3 A PSYCHOTHERAPIST FAILS WHEN THE PSYCHOTHERAPIST IS NO  
4 LONGER SPEAKING TO THE CLIENT IN HER CAPACITY AS SUCH. IN  
5 OTHER WORDS, THE PROFESSIONAL SPEECH DOCTRINE IS  
6 PROPERLY LIMITED TO THE ACTUAL PRACTICE OF THE  
7 PROFESSION." SEE SERAFINE V BRANAMAN (2016). THE TERM  
8 BEHAVIOR ANALYST CANNOT BE RESTRICTED OUTSIDE THE  
9 THERAPEUTIC RELATIONSHIP. SECTION 506.251 (C) DIRECTLY  
10 VIOLATES THE PRECEDENT SET BY THE FIFTH CIRCUIT COURT OF  
11 APPEALS. EXCEPT AS PROVIDED BY SUBCHAPTER B, A PERSON  
12 MAY NOT USE THE TITLE "BEHAVIOR ANALYST" UNLESS THE  
13 PERSON IS LICENSED UNDER THIS CHAPTER.

14 WHEN THE STATE OF TEXAS DENIED OR CONSIDERED THE  
15 PLAINTIFFS APPLICATION INVALID, THEY DID SO IN VIOLATION OF  
16 THE TEXAS BEHAVIOR ANALYST LICENSURE ACT WITHOUT  
17 PROVIDING DUE PROCESS AS REQUIRED BY THAT LAW OR BY THE  
18 DUE PROCESS CLAUSE OF THE CONSTITUTION. THE LAW  
19 REQUIRES A RECIPROCITY PROCESS BY USING THE LANGUAGE  
20 "SHALL" AND THE FACT THAT THE DEPARTMENT DOES NOT HAVE A  
21  
22  
23  
24

1 PROCESS SHOWS THEY INTEND TO VIOLATE THE LAW. IT HAS BEEN  
2 FIVE YEARS SINCE THE LAW WAS ENACTED. ENOUGH IS ENOUGH.  
3

4 NOW WE GET INTO THE ISSUE WITH THE LOUISIANA LAW. IT IS  
5 SIMPLE. DISCRIMINATING AGAINST AN ALTERNATIVE  
6 CERTIFICAITON BOARD SIMPLY BASED ON HOW THEY FILED THEIR  
7 BUSINESS TYPE IS A VIOLATION OF THE FIRST AMENDMENT  
8 BECAUSE IT PENALIZES SOMEONE DIRECTLY FOR THEIR TYPE OF  
9 BUSINESS OR SPEECH.  
10

11 PLAINTIFF MICHAEL MOATES IS IN LITIGATION WITH THE  
12 BEHAVIOR ANALYST CERTIFICATION BOARD; IT IS VERY LIKELY  
13 THAT THEY WOULD NOT CERTIFY HIM AND THUS THE  
14 GOVERNMENT WOULD NOT LICENSE HIM IN CERTAIN STATES. SEE  
15 BEHAVIOR ANALYST CERTIFICATION BOARD V MOATES IN THE  
16 DISTRICT COURT OF COLORADO. THIS WOULD BE A DENIAL OF DUE  
17 PROCESS.  
18

19 **ASSERTIONS AGAINST POSSIBLE DEFENSES**

20 SOVEREIGN IMMUNITY - THIS COMPLAINT ALLEGES THAT THE  
21 STATE GOVERNMENT HAS VIOLATED FEDERAL CONSTITUTIONAL  
22 PROVISIONS AND STATUTES. *IN EX PARTE YOUNG*, 28 S. CT. 441,  
23 209 U.S. 123 (1908), THE SUPREME COURT RULED THAT THE  
24

1 *ELEVENTH AMENDMENT DOES NOT STOP A FEDERAL COURT FROM*  
2 *ISSUING AN INJUNCTION AGAINST A STATE OFFICIAL WHO IS*  
3 *VIOLATING FEDERAL LAW. ALTHOUGH THE STATE OFFICIAL MAY BE*  
4 *ABIDING BY STATE LAW, HE IS NOT PERMITTED TO VIOLATE*  
5 *FEDERAL LAW, AND A FEDERAL COURT CAN ORDER HIM TO STOP*  
6 *THE ACTION WITH AN INJUNCTION. FURTHER, THE STATES*  
7 *SURRENDERED A PORTION OF THE SOVEREIGN IMMUNITY THAT*  
8 *HAD BEEN PRESERVED FOR THEM BY THE CONSTITUTION WHEN*  
9 *THE FOURTEENTH AMENDMENT WAS ADOPTED. THEREFORE,*  
10 *CONGRESS MAY AUTHORIZE PRIVATE SUITS AGAINST NON-*  
11 *CONSENTING STATES TO ENFORCE THE CONSTITUTIONAL*  
12 *GUARANTEES OF THE FOURTEENTH AMENDMENT. CONGRESS HAS*  
13 *DONE JUST THAT UNDER 42 U.S.C. § 1983. THUS, A CLAIM TO*  
14 *SOVEREIGN IMMUNITY HAS NO WEIGHT. FURTHER, MONEY*  
15 *DAMAGES ARE POSSIBLE AGAINST THE STATE OFFICER, AS LONG*  
16 *AS THE DAMAGES ARE ATTRIBUTABLE TO THE OFFICER HIMSELF,*  
17 *AND ARE NOT PAID FROM THE STATE TREASURY. SCHEUER V.*  
18 *RHODES, 416 U.S. 232 (1974). THIS WILL BE DIRECTLY PRESENTED*  
19 *IN COURT. § 1983 WILL BE APPLIED LIBERALLY TO ACHIEVE ITS*  
20 *GOAL OF PROTECTING OFFICIAL VIOLATIONS OF FEDERALLY*

1 **PROTECTED RIGHTS. DENNIS V. HIGGINS, 498 U.S. 439 (1991). THE**  
2 **PLAINTIFF MUST ASSERT THAT THE DEFENDANT (1) ACTED UNDER**  
3 **COLOR OF STATE LAW AND (2) DEPRIVED THE PLAINTIFF OF A**  
4 **RIGHT SECURED BY THE CONSTITUTION OR A FEDERAL STATUTE.**  
5  
6 **GOMEZ V. TOLEDO, 446 U.S. 635 (1980).**

7 **CAUSES OF ACTION**

8 **ALL DEFENDANTS**

9 **FIRST AMENDMENT OF US CONSTITUTION - SPEECH, RELIGION, ASSOCIATION,**  
10 **BUSINESS SPEECH, BUSINESS ASSOCIATION**

- 11 - **PLAINTIFF REALLEGES AND INCORPORATES BY REFERENCE EACH AND**  
12 **EVERY ALLEGATION SET FORTH ABOVE.**
- 13 - **PLAINTIFF ALLEGES THAT HIS SPEECH IS RESTRICTED BEYOND THE**  
14 **THERAPEUTIC PRACTICE OF BEHAVIOR ANALYSIS.**
- 15 - **PLAINTIFF ALLEGES THAT IF HE WANTS TO BE LICENSED, HE MUST**  
16 **BECOME A BOARD CERTIFIED BEHAVIOR ANALYST FORCING HIM TO**  
17 **CLAIM A TITLE HE DOES NOT WANT IN ORDER TO PRACTICE IN TEXAS,**  
18 **NORTH CAROLINA, OKLAHOMA, MISSOURI, AND VIRGINIA (ACCORDING**  
19 **TO CURRENT ADMINISTRATIVE RULES).**
- 20 - **DEFENDANTS SEEK TO DENY RIGHTS, PRIVILEGES AND/OR IMMUNITIES**  
21 **SECURED BY THE FIRST AND FOURTEENTH AMENDMENTS, AND,**  
22 **THEREFORE, DEFENDANTS ARE LIABLE TO THE PLAINTIFF UNDER 42**  
23 **U.S.C. § 1983.**

- 1 - **"CONTENT-BASED REGULATIONS [ON SPEECH] ARE PRESUMPTIVELY**  
2 **INVALID" UNDER THE FIRST AMENDMENT. R.A.V. V. CITY OF ST. PAUL,**  
3 **505 U.S. 377, 382 (1992). A STATUTE WHICH "LICENSES A PROFESSION"**  
4 **IS NOT "DEVOID OF ALL FIRST AMENDMENT IMPLICATION." RILEY V.**  
5 **NAT'L FED'N OF THE BLIND OF N. CAROLINA, INC., 487 U.S. 781, 801 N.13**  
6 **(1988).**
- 7 - **PLAINTIFF ASKS THE COURT TO WATCH THE FOLLOWING VIDEO: TDLR**  
8 **BEHAVIOR ANALYST ADVISORY BOARD MEETING 6-7-2022.mp4**  
9 **(https://bhvmed-my.sharepoint.com/:v/g/personal/mike\_beviormed\_org/**  
10 **ERSKHAV0YeRPrPD2q5KLwogB3ROHN9uqB\_sfS7quiWSb7Q?e=fqT3Lb)**
- 11 - **THE PLAINTIFF ASKS THE COURT TO NOTE THAT BOARD TAKES ISSUES**  
12 **WITH THE QABA'S CONTENT FOR CERTIFICATION. THE PLAINTIFF ALSO**  
13 **ASKS THE COURT TO TAKE NOTE OF MR. FINDLAY'S QUESTION AT 18:55,**  
14 **HE ASKS IF APPROVING QABA WOULD HAVE A NEGATIVE IMPACT ON**  
15 **THE CONSUMER AND YOU WILL NOTE THAT THE TDLR STAFF DEFLECT**  
16 **KNOWING THAT IT WOULD NOT. THE BLOCK IS SOLELY BASED ON**  
17 **CONTENT AS IT COMPARES TO THE BEHAVIOR ANALYST CERTIFICATION**  
18 **BOARD.**
- 19 - **"THE FIRST AMENDMENT'S PROTECTION OF ASSOCIATION PROHIBITS A**  
20 **STATE FROM EXCLUDING A PERSON FROM A PROFESSION OR**  
21 **PUNISHING HIM SOLELY BECAUSE HE IS A MEMBER OF A PARTICULAR**  
22 **POLITICAL ORGANIZATION OR BECAUSE HE HOLDS CERTAIN BELIEFS."**  
23 **UNITED STATES V. ROBEL, 389 U. S. 258, 266 (1967); KEYISHIAN V. BOARD**  
24

1 **OF REGENTS, 385 U. S. 589, 607 (1967). "SIMILARLY, WHEN A STATE**  
2 **ATTEMPTS TO MAKE INQUIRIES ABOUT A PERSON'S BELIEFS OR**  
3 **ASSOCIATIONS, ITS POWER IS LIMITED BY THE FIRST AMENDMENT.**  
4 **BROAD AND SWEEPING STATE INQUIRIES INTO THESE PROTECTED**  
5 **AREAS, AS ARIZONA HAS ENGAGED IN HERE, DISCOURAGE CITIZENS**  
6 **FROM EXERCISING RIGHTS PROTECTED BY THE CONSTITUTION."**  
7 **SHELTON V. TUCKER, SUPRA; GIBSON V. FLORIDA LEGISLATIVE**  
8 **INVESTIGATION COMMITTEE, 372 U. S. 539 (1963); CF. SPEISER V.**  
9 **RANDALL, 357 U. S. 513 (1958).**

- 10 - **PLAINTIFF AFFIRMS THAT HE IS A MAN OF CHRISTIAN FAITH. HE**  
11 **AFFIRMS THAT THE BIBLE FORBIDS TORTURE. AS INDIVIDUALS, WE ARE**  
12 **NOT TO SEEK REVENGE. VENGEANCE BELONGS ONLY TO THE LORD**  
13 **(PSALM 94:1; ROMANS 12:19) JUDGE NOT, AND YOU WILL NOT BE**  
14 **JUDGED; CONDEMN NOT, AND YOU WILL NOT BE CONDEMNED;**  
15 **FORGIVE, AND YOU WILL BE FORGIVEN (LUKE 6:37)**  
16 - **PLAINTIFF REALLEGES THAT THE JUDGE ROTENBERG CENTER IS**  
17 **ENGAGED IN A PRACTICE OF SHOCKING MINOR CHILDREN.**  
18 - **PLAINTIFF REALLEGES THAT THE BEHAVIOR ANALYST CERTIFICATION**  
19 **BOARD WILLINGLY CERTIFIES PEOPLE ON THE STAFF AND LEADERSHIP**  
20 **OF THIS SCHOOL.**  
21 - **PLAINTIFF REALLEGES THAT BEING FORCED TO ASSOCIATE WITH**  
22 **ANYONE CONNECTED TO THIS PRACTICE WOULD BE A VIOLATION OF**  
23 **HIS RELIGION.**

- 1 - **PLAINTIFF REALLEGES BEING FORCED TO GIVE THIS ORGANIZATION**  
2 **MONEY WOULD VIOLATE HIS FREE SPEECH AND RELIGIOUS RIGHTS.**  
3 - **PLAINTIFF REALLEGES THAT DEFENDANTS TEXAS, VIRGINIA, MISSOURI,**  
4 **NORTH CAROLINA, AND OKLAHOMA SEEK TO FORCE THE PLAINTIFF TO**  
5 **BECOME AFFILIATED WITH THE BEHAVIOR ANALYST CERTIFICATION**  
6 **BOARD, A PRIVATE CORPORATION, IN ORDER TO BECOME LICENSED IN**  
7 **VIOLATION OF THE FIRST AMENDMENT.**  
8 - **FURTHER THESE GOVERNMENT ENTITIES WOULD FORCE THE**  
9 **PLAINTIFF TO GIVE THIS ORGANIZATION MONEY AGAINST HIS WILL. THE**  
10 **GOVERNMENT IS FORCING CITIZENS TO PAY THIS CORPORATION**  
11 **MONEY IN ORDER TO ENJOY LIBERTY WHICH IS UNLAWFUL.**  
12 - **THE STATES ARE FORCING BY VIRTUE OF LAW OR ADMINISTRATIVE**  
13 **RULE ALTERNATIVE BOARDS SUCH AS THE QUALIFIED APPLIED**  
14 **BEHAVIOR ANALYSIS CREDENTIALING BOARD OR BEHAVIOR**  
15 **INTERVENTION CERTIFICATION COUNCIL TO HAVE THE EXACT CONTENT**  
16 **THAT IS THE WAY THE BEHAVIOR ANALYST CERTIFICATION BOARD HAS**  
17 **IT. IN FACT, THE STATE OF TEXAS HAS PURPOSEFULLY SAID THAT THEY**  
18 **WOULD NOT ACCEPT THE QABA CERTIFICATION BECAUSE IT HAS**  
19 **AUTISM AS A PART OF THE CONTENT FOR CERTIFICATION.**

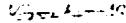
20 First, Texas Occupations Code (TOC), Ch. 506, relating to Behavior Analysts, defines "certifying entity" as  
21 the nationally accredited Behavior Analyst Certification Board® (BACB®) or another entity that is  
22 accredited by the National Commission for Certifying Agencies (NCCA) or the American National  
23 Standards Institute (ANSI) to issue credentials in the professional practice of applied behavior analysis  
24 and approved by the department. The QASP-S credential, issued by QABA®, is accredited by ANSI to  
provide a certification as a qualified autism service practitioner, not to issue a credential in the  
professional practice of applied behavior analysis, so it may not be approved as a certification for the  
Assistant Behavior Analyst license.

- 1 - **HERE IS A LETTER FROM THE ACCREDITATION BOARD DIRECTLY**  
2 **STATING THAT THE STATEMENT MADE IS INACCURATE.**

3 **The scope of each program has been reviewed and reflect that the certifications are in the field of ABA and**  
4 **include autism as one of the competencies.**

5 Please feel free to contact me for any additional questions or clarification.

6 **Sincerely,**

7 

8 **Vijay Krishna, Ed.D.**  
9 Vice President, Credentialing

- 10 -
- 11 - **DESPITE THIS, THE DEPARTMENT THEN FOUND A DIFFERENT EXCUSE**  
12 **FOR WHY THEY (TEXAS) WOULD NOT RECOGNIZE THE CERTIFICATION.**
- 13 - **"CONTENT-BASED REGULATIONS ARE PRESUMPTIVELY INVALID"**  
14 **UNDER THE FIRST AMENDMENT. R.A.V. V. CITY OF ST. PAUL, 505 U.S. 377,**  
15 **382 (1992). A STATUTE WHICH "LICENSES A PROFESSION" IS NOT**  
16 **"DEVOID OF ALL FIRST AMENDMENT IMPLICATION." RILEY V. NAT'L**  
17 **FED'N OF THE BLIND OF N. CAROLINA, INC., 487 U.S. 781, 801 N.13 (1988).**
- 18 - **PLAINTIFF HAS EXHAUSTED ALL REMEDIES AVAILABLE AND SO HAS**  
19 **THE CREDENTIALING BOARD. DEFENDANTS HAVE STATED THIS WILL**  
20 **NOT BE REVISITED.**

21 You have requested to appeal these decisions but there exists no formal appeal procedure. Because  
22 TDLR is obligated to implement Occupations Code Chapter 506 as written, the disapproval of the QASP-  
23 S® credential for Assistant Behavior Analyst licensure can be reconsidered only if there is a relevant  
24 change to that law. TDLR is not permitted to request the legislature to make such a change.

1 Pursuant to Texas Government Code §2001.021 and 16 TAC §60.102, the Department is denying your  
2 rulemaking petition for the following two reasons:

3 First, your rulemaking petition proposes that the Department recognize and accept an alternative  
4 certification for Behavior Analysts that is issued by the Qualified Applied Behavior Analysis Credentialing  
5 Board (QABA). The certification issued by the QABA, which is known as the Qualified Behavior Analyst  
6 (QBA) credential, is not currently accepted under Tex. Occ. Code Chapter 506.

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- **DEFENDANT STATE OF LOUISIANA REQUIRES THAT AN ORGANIZATION BE A NON-PROFIT ENTITY TO ENJOY THE RIGHT OF LICENSURE. THIS IS A VIOLATION OF FREE SPEECH BY TELLING A BUSINESS HOW IT MUST ORGANIZE. IT IS A VIOLATION OF THE EQUAL PROTECTION CLAUSE BECUASE IT TREATS FOR PROFIT AND NONPROFIT ORGANIZATIONS DIFFERENTLY.**
  - **"THERE ARE A NUMBER OF LINES OF COMMERCE IN WHICH BOTH FOR-PROFIT AND NONPROFIT ENTITIES PARTICIPATE. SOME EDUCATIONAL INSTITUTIONS, SOME HOSPITALS, SOME CHILD CARE FACILITIES, SOME RESEARCH ORGANIZATIONS, AND SOME MUSEUMS GENERATE SIGNIFICANT EARNINGS; AND SOME ARE OPERATED BY NOT-FOR-PROFIT CORPORATIONS." SEE HANSMANN, THE ROLE OF NONPROFIT ENTERPRISE, 89 YALE L. J. 835, 835, AND N. 1, 865 (1980). "A NONPROFIT ENTITY IS ORDINARILY UNDERSTOOD TO DIFFER FROM A FOR-PROFIT CORPORATION PRINCIPALLY BECAUSE IT "IS BARRED FROM DISTRIBUTING ITS NET EARNINGS, IF ANY, TO INDIVIDUALS WHO EXERCISE CONTROL OVER IT, SUCH AS MEMBERS, OFFICERS, DIRECTORS, OR TRUSTEES." ID., AT 838.17 "NOTHING INTRINSIC TO THE NATURE OF NONPROFIT ENTITIES PREVENTS THEM FROM ENGAGING IN INTERSTATE COMMERCE."**

1 - **"FOR PURPOSES OF COMMERCE CLAUSE ANALYSIS, ANY**  
2 **CATEGORICAL DISTINCTION BETWEEN THE ACTIVITIES OF**  
3 **PROFIT-MAKING ENTERPRISES AND NOT-FOR-PROFIT ENTITIES IS**  
4 **THEREFORE WHOLLY ILLUSORY. ENTITIES IN BOTH CATEGORIES ARE**  
5 **MAJOR PARTICIPANTS IN INTERSTATE MARKETS." SEE WICKARD V.**  
6 **FILBURN, 317 U. S. 111, 127- 128 (1942); LOPEZ, 514 U. S., AT 556, 559-560.**

7

8 **DUE PROCESS CLAUSE OF US CONSTITUTION - VAGUENESS**

9 - **PLAINTIFF REALLEGES AND INCORPORATES BY REFERENCE EACH AND**  
10 **EVERY ALLEGATION SET FORTH ABOVE.**  
11 - **PLAINTIFF ASSERTS THE LANGUAGE IN THE FOLLOWING LAWS IS**  
12 **VAGUE, UNCLEAR, AND DID NOT GIVE FAIR NOTICE TO THOSE WHO**  
13 **WOULD APPLY:**  
14 - **TEXAS BEHAVIOR ANALYST LICENSURE ACT - CERTIFYING ENTITIES -**  
15 **"APPROVED BY THE DEPARTMENT" THE STATUTE NOR THE RULES**  
16 **STATE WHAT IS REQUIRED TO BE APPROVED BY THE DEPARTMENT.**  
17 - **TEXAS BEHAVIOR ANALYST LICENSURE ACT - SECTION 506.256 (B)(1)(C)**  
18 **- "AS APPROPRIATE" THIS IS VAGUE AND WHAT THE PLAINTIFF MAY**  
19 **CONSIDER APPROPRIATE THE DEPARTMENT MAY NOT. IT IS UNCLEAR**  
20 **AND UNJUST. THUS, DENYING DUE PROCESS.**  
21 - **DEFENDANTS SEEK TO DENY RIGHTS, PRIVILEGES AND/OR IMMUNITIES**  
22 **SECURED BY THE FIRST AND FOURTEENTH AMENDMENTS, AND,**

1 **THEREFORE, DEFENDANTS ARE LIABLE TO THE PLAINTIFF UNDER 42**  
2 **U.S.C. § 1983.**

3

4 **EIGHT AMENDMENT OF US CONSTITUTION - CRUEL / UNUSUAL PUNISHMENT**

- 5 - **PLAINTIFF REALLEGES AND INCORPORATES BY REFERENCE EACH AND**  
6 **EVERY ALLEGATION SET FORTH ABOVE.**
- 7 - **THE PRACTICE TAKING PLACE AT THE JUDGE ROTENBERG CENTER IS A**  
8 **FORM OF PUNISHMENT BECAUSE IT IS A STIMULI THAT SEEKS TO**  
9 **DECREASE A BEHAVIOR FROM HAPPENING IN THE FUTURE. IT IS CRUEL**  
10 **AND UNUSUAL BECAUSE THIS PRACTICE IS NOT USED ANYWHERE**  
11 **ELSE IN THE WORLD TO THE PLAINTIFF'S KNOWLEDGE. NOT EVEN ON**  
12 **TERRORISTS.**
- 13 - **THE PRACTICE OF DENYING SOMEONE THE LIBERTY OF A LICENSE TO**  
14 **PUNISH THEM FOR NOT PAYING A CORPORATION AND AGREEING TO BE**  
15 **ASSOCIATED WITH THEM IS UNUSUAL AS MOST OTHER MENTAL**  
16 **HEALTH PROFESSIONS HAVE NO SUCH REQUIREMENT. IT IS CRUEL TO**  
17 **MAKE THE PLAINTIFF CHOOSE BETWEEN HIS RELIGION AND HIS DREAM**  
18 **JOB.**
- 19 - **DEFENDANTS SEEK TO DENY RIGHTS, PRIVILEGES AND/OR IMMUNITIES**  
20 **SECURED BY THE FIRST AND FOURTEENTH AMENDMENTS, AND,**  
21 **THEREFORE, DEFENDANTS ARE LIABLE TO THE PLAINTIFF UNDER 42**  
22 **U.S.C. § 1983.**

1 **TENTH AMENDMENT OF US CONSTITUTION - RIGHTS OF PEOPLE**

- 2 - **PLAINTIFF REALLEGES AND INCORPORATES BY REFERENCE EACH AND**  
3 **EVERY ALLEGATION SET FORTH ABOVE.**  
4 - **THE CONSTITUTION DELEGATES THE POWER OF LAW FROM THE US**  
5 **CONGRESS TO THE STATES AND THE PEOPLE, RESPECTIVELY. IT DOES**  
6 **NOT GIVE ANY PRIVATE CORPORATION THE AUTHORITY OVER PRIVATE**  
7 **PEOPLES. THIS IS A DANGEROUS PRECEDENT.**  
8 - **DEFENDANTS SEEK TO DENY RIGHTS, PRIVILEGES AND/OR IMMUNITIES**  
9 **SECURED BY THE FIRST AND FOURTEENTH AMENDMENTS, AND,**  
10 **THEREFORE, DEFENDANTS ARE LIABLE TO THE PLAINTIFF UNDER 42**  
11 **U.S.C. § 1983.**

12

13 **FOURTEENTH AMENDMENT OF US CONSTITUTION - EQUAL PROTECTION,**  
14 **PRIVILEGES / IMMUNITIES**

- 15 - **PLAINTIFF REALLEGES AND INCORPORATES BY REFERENCE EACH AND**  
16 **EVERY ALLEGATION SET FORTH ABOVE.**  
17 - **NO STATE BOARD IN THE UNITED STATES HAS APPOINTED A MEMBER**  
18 **FROM AN ALTERNATIVE CERTIFICATION BOARD REPRESENTATION ON**  
19 **THE STATES BEHAVIOR ANALYST ADVISORY COMMITTEE. THUS, THERE**  
20 **IS NOT EQUAL REPRESENTATION OR PROTECTION.**  
21 - **STATE LAWS SPECIFICALLY WRITE THE BEHAVIOR ANALYST**  
22 **CERTIFICATION BOARD INTO THE LAW BUT REQUIRE OTHERS TO GET**

1           **"BOARD APPROVAL" OR OTHER RELATED LANGUAGE. THIS IS**  
2           **FAVORING ONE GROUP AND DENIES EQUAL PROTECTION.**

- 3           **- DEFENDANTS SEEK TO DENY RIGHTS, PRIVILEGES AND/OR IMMUNITIES**  
4           **SECURED BY THE FIRST AND FOURTEENTH AMENDMENTS, AND,**  
5           **THEREFORE, DEFENDANTS ARE LIABLE TO THE PLAINTIFF UNDER 42**  
6           **U.S.C. § 1983.**
- 7           **- THE OKLAHOMA UNIVERSAL LICENSURE RECOGNITION ACT STATES "A**  
8           **PERSON MOVING TO AND RESIDING IN OKLAHOMA MAY MAKE**  
9           **APPLICATION FOR LICENSING OR CERTIFICATION PURSUANT TO THE**  
10           **UNIVERSAL LICENSING RECOGNITION ACT IF THERE IS NO CONFLICT**  
11           **WITH ANY INTERSTATE COMPACT OR STATE-TO-STATE RECIPROCITY OR**  
12           **EQUIVALENCY AGREEMENTS AS DETERMINED BY THE OKLAHOMA**  
13           **REGULATORY ENTITY."**
- 14           **- THIS IS UNLAWFUL AND UNCONSTITUTIONAL AS THE PRIVILEGES AND**  
15           **IMMUNITIES CLAUSE REQUIRES THE STATE TO TREAT CITIZENS OF ALL**  
16           **THE STATES AS CITIZENS OF THE STATE.**
- 17           **- THE SUPREME COURT HELD IN GRANHOLM V. HEALD, 544 U.S. 460, 161**  
18           **L. ED. 2D 796, 125 S. CT. 1885 (2005) "TIME AND AGAIN THIS COURT HAS**  
19           **HELD THAT, IN ALL BUT THE NARROWEST CIRCUMSTANCES, STATE**  
20           **LAWS VIOLATE THE COMMERCE CLAUSE IF THEY MANDATE**  
21           **"DIFFERENTIAL TREATMENT OF IN-STATE AND OUT-OF-STATE**  
22           **ECONOMIC INTERESTS THAT BENEFITS THE FORMER AND BURDENS**  
23           **THE LATTER." OREGON WASTE SYSTEMS, INC. V. DEPARTMENT OF**
- 24

1           **ENVIRONMENTAL QUALITY OF ORE., 511 U. S. 93, 99 (1994). SEE ALSO**  
2           **NEW ENERGY CO. OF IND. V. LIMBACH, 486 U. S. 269, 274 (1988). THIS**  
3           **RULE IS ESSENTIAL TO THE FOUNDATIONS OF THE UNION. THE MERE**  
4           **FACT OF NONRESIDENCE SHOULD NOT FORECLOSE A PRODUCER IN**  
5           **ONE STATE FROM ACCESS TO MARKETS IN OTHER STATES.” H. P. HOOD**  
6           **& SONS, INC. V. DU MOND, 336 U. S. 525, 539 (1949)**

7           - **IN BARNARD, CHAIRMAN OF THE COMMITTEE OF BAR EXAMINERS OF**  
8           **THE VIRGIN ISLANDS v. THORSTENN ET AL. (1988), THE COURT**  
9           **DECLARED LOCAL RULE 56(B)(4)-(5) OF THE DISTRICT COURT OF THE**  
10           **VIRGIN ISLANDS: PROVISIONS OF VIRGIN ISLANDS BAR ADMISSION**  
11           **RULES REQUIRING AT LEAST ONE YEAR OF RESIDENCE IN THE VIRGIN**  
12           **ISLANDS AND INTENTION TO CONTINUE TO RESIDE AND PRACTICE IN**  
13           **THE VIRGIN ISLANDS AFTER ADMISSION.**

14           **DEFENDANT STATE OF GEORGIA:**

15           **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY**  
16           **APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

17           **DEFENDANT STATE OF LOUISIANA:**

18           **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY**  
19           **APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

20           **DEFENDANT STATE OF MISSOURI:**

21           **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY**  
22           **APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

23           **DEFENDANT STATE OF OKLAHOMA:**

1 **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY  
2 APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

3 **DEFENDANT STATE OF NORTH CAROLINA:**

4 **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY  
5 APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

6 **DEFENDANT STATE OF TEXAS:**

7 **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY  
8 APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

9 **DEFENDANT STATE OF VIRGINIA:**

10 **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY  
11 APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

12 **DEFENDANT STATE OF WYOMING:**

13 **THE PLAINTIFF ALLEGES THE CONSTITUTIONAL VIOLATIONS ABOVE AS THEY  
14 APPLY TO THE STATE CONSTITUTION OF THIS DEFENDANT.**

15 **DAMAGES**

16 **THE PLAINTIFF HAS BEEN DAMAGED OVER THIS BUT IS ONLY  
17 SEEKING INJUNCTIVE RELIEF AND COURT COSTS.**

19 **PRAYER FOR RELIEF**

20 **WHEREFOR, THE PLAINTIFF RESPECTFULLY PRAYS THE COURT  
21 ISSUE THE FOLLOWING RELIEF:**

- 22 - **THE COURT ISSUES A PRELIMINARY INJUNCTION;**

- 1 - THE COURT ISSUES A PERMANENT NATIONWIDE INJUNCTION;  
2 AND  
3 - THE COURT ISSUE A FINAL DECLARATORY ORDER.

5   
6 13 JUNE 2022 VERY RESPECTFULLY,  
7 /S/ PROF. MICHAEL MOATES, MA, QBA, LBA, LCMHC, LMHP

8 2700 COLORADO BOULEVARD APT 1526  
9 DENTON, TX 76210

10 817-999-7534  
11 MIKE@BEHAVIORMED.ORG  
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HELLO CLERK,

KINDLY FILE IN THIS ORDER:

CIVIL COVER SHEET

PETITION

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS

MOTION FOR PRELIMINARY INJUNCTION

NOTICE OF CONSTITUTIONAL CHALLENGE

NOTICE OF ELECTION TO PROCEED BEFORE THE MAGISTRATE JUDGE FOR PRETRIAL MOTIONS

MOTION FOR ECF ACCESS

*THANK  
YOU*

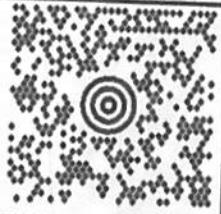
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MICHAEL MOATES  
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2700 COLORADO BOULEVARD  
DENTON TX 76210

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WACO TX 76701



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